

**Sonos, Inc.’s Opp’n to Google LLC’s
Motion *In Limine* No. 4**

EXHIBIT D
(FILED UNDER SEAL)

HIGHLY CONFIDENTIAL-ATTORNEYS' EYES ONLY

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

GOOGLE LLC,

Plaintiff,

v.

SONOS, INC.,

Defendant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**REBUTTAL EXPERT REPORT
REGARDING DAMAGES**

January 13, 2023

Respectfully Submitted,



W. Christopher Bakewell

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which include wireless, portable, and home theater speakers, components and accessories.⁹⁸ Sonos's "target audience is primarily audiophiles and wealthier households."⁹⁹

67. Sonos describes itself on its website as a "pioneer of wireless audio."¹⁰⁰ Sonos has a network of partners including Amazon, IKEA, Sonance and Audi, among others.¹⁰¹
68. According to the Complaint, Sonos is a leading company in terms of granted U.S. patents, having more than 940 patents, including the patents-in-suit, with hundreds more patents in other countries.¹⁰² Sonos also states that its patent portfolio is highly valuable.¹⁰³

2.3 Overview Of Google

69. Headquartered in Mountain View, California and incorporated in September 1998, Google originated as an internet search engine; the company has grown to be a global enterprise cloud computing provider.¹⁰⁴
70. Google's mission is to "to organize the world's information and make it universally accessible and useful."¹⁰⁵ Google operates a product and service ecosystem that includes operating

⁹⁸ "Sonos: Lost The Battle Before It Started," SeekingAlpha.com, March 21, 2019 (accessed: <https://seekingalpha.com/article/4250335-sonos-lost-battle-started>).

⁹⁹ Sonos, Inc.'s 10-Q for quarter ended April 2, 2022, p. 8; "Sonos, Inc. (NASDAQ: SONO)," USIT, June 21, 2020, p. 1; SONOS-SVG2-00055769, at 777, 785. Sonos products are sold through "third-party physical retailers, including custom installers of home audio systems, select e-commerce retailers, and its website, sonos.com."

¹⁰⁰ "About Sonos," Sonos website (accessed: <https://www.sonos.com/en-us/our-company>).

¹⁰¹ SONOS-SVG2-00226112-209, at 118-119, 146, 148, 158; Sonos's Form 10-K for fiscal year ended December 31, 2021, pp. 5-6, 7, 31-32, 33.

¹⁰² Malackowski Supplemental Report, p. 13, citing Sonos, Inc.'s Third Amended Complaint, *Sonos, Inc., v. Google, LLC*, 3:21-cv-07559, March 30, 2022, p. 2. As of December 2022, Google held over 31,000 active U.S. patents, and over 16,000 active foreign patents. Innography Patent Search, (accessed: <https://patentscout.innography.com/>); Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2019, p. 9.

¹⁰³ Sonos, Inc.'s Third Amended Complaint, *Sonos, Inc., v. Google, LLC*, 3:21-cv-07559, March 30, 2022, p. 2, citing Exhibits E and F. I note that neither Sonos nor Mr. Malackowski have claimed that the patents-in-suit are among its most valuable patents.

¹⁰⁴ Google held an initial public offering in August 2004. In 2015, through corporate restructuring, Google Inc. became a subsidiary of Alphabet Inc. ("Alphabet"). In 2017, Google Inc. was converted to the limited liability company, Google LLC, which became a subsidiary of XXVI Holdings Inc., which was a subsidiary of Alphabet. Google Inc., Form 10-K for the fiscal year ended December 31, 2015, p. 18; Alphabet Inc., Form 10-K for the fiscal year ended December 31, 2021, p. 25.

¹⁰⁵ Google, Inc. Form 10-K for the period ending December 31, 2021, p. 4.

systems, streaming services and mobile devices.¹⁰⁶ Over the years, Google has continued to improve “the discovery and creation of digital content” through platforms such as YouTube and Google Play.¹⁰⁷

71. Google has made significant advances in search, mobile computing, artificial intelligence, natural language processing, machine learning, voice-assisted technologies and analytics.¹⁰⁸ Google technologies are included in household products such as smart home speakers (e.g., Google Home), smart displays (e.g., Nest Hub), smart mesh router systems (e.g., Nest Wifi Point), smart dongles (e.g., Chromecast), smartphones (e.g., Google Pixel), tablets (e.g., Google Pixel Slate), and laptops (e.g., Google Pixelbook), among other products.¹⁰⁹

2.4 Overview Of Accused Products And Accused Functionalities

72. I provide a brief overview of the accused functionalities and products for the patents-in-suit in the following paragraphs.

‘033 Patent: Overview Of The Accused Functionality

73. At a high level, I understand that Sonos alleges the accused products for the ‘033 patent include: (i) Pixel devices pre-installed with the YouTube Main and/or YouTube Music apps that allegedly directly infringe the asserted claims of the ‘033 patent; (ii) smartphones, tablets or laptops (including Android, iOS and ChromeOS devices) “provisioned” with the YouTube Main, YouTube Music, YouTube Kids or YouTube TV apps that allegedly indirectly infringe

¹⁰⁶ “Google Products,” Google (accessed: <https://about.google/products/#all-products>); “Google Products,” Google Store (accessed: <https://store.google.com/?hl=en-US>); “Google LLC,” Capital IQ (accessed: <https://www.capitaliq.com/CIQDotNet/company.aspx?companyId=312932093&fromSearchProfiles=True>); “The Ecosystem of Google Technologies,” CIO Review (accessed: <https://google.cioreview.com/cxoinight/the-ecosystem-of-google-technologies-nid-5859-cid-82.html>).

¹⁰⁷ Google, Inc. Form 10-K for the period ending December 31, 2021, p. 4.

¹⁰⁸ Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2021, pp. 4-6 (accessed: <https://www.sec.gov/Archives/edgar/data/1652044/000165204422000019/goog-20211231.htm>); “Stairway to Heaven,” BNP Paribas, April 21, 2021, p. 7; “Google CEO Still Insists AI Revolution Bigger Than Invention Of Fire,” Gizmodo, July 14, 2021 (accessed: <https://gizmodo.com/google-ceo-still-insists-ai-revolution-bigger-than-inve-1847288454>); “Overcoming The Innovation Readiness Gap,” BCG Consulting, April 2021 (accessed: <https://web-assets.bcg.com/d5/ef/ea7099b64b89860fd1aa3ec4ff34/bcg-most-innovative-companies-2021-apr-2021-r.pdf>).

¹⁰⁹ GOOG-SONOSNDCA-00057035; GOOG-SONOSNDCA-00056973; SONOS-SVG2-00055681-768, at 738-739; Alphabet Inc. Form 10-K for the fiscal year ended December 31, 2020, p. 6; “Stairway to Heaven,” Exane BNP Paribas, April 21, 2021, p. 7.